

DECISION



13400 ms. Diamond PHM-1
**THE COMPTROLLER GENERAL
OF THE UNITED STATES**
WASHINGTON, D.C. 20548

FILE: B-194745

DATE: April 8, 1980

MATTER OF: George Quintal - Claim for Backpay -
Detail to Higher-Grade Position

DIGEST: [Claim for] Employee claims retroactive temporary promotion and backpay while performing higher-level duties in light of Turner-Caldwell decisions. Claim is denied since employee has failed to meet burden of proof to support claim that he was detailed to and performed the duties of the higher-grade position.

Mr. George Quintal requests reconsideration of his claim for retroactive temporary promotion and backpay which was disallowed by our Claims Division on January 25, 1979 (Z2718977). For the following reasons we sustain the adjudication of our Claims Division.

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Mr. Quintal, an employee of the Federal Aviation Administration (FAA), contends that he was detailed to the position of Assistant Sector Manager, GS-14, for a full year beginning in June 1972 and ending in July 1973, while appointed as a Supervisory Electronic Technician, GS-13. The FAA recognized Mr. Quintal's detail from August 6, 1972, to January 31, 1973, and granted him a retroactive temporary promotion with backpay for this period in accordance with our Everett Turner-David L. Caldwell decisions, 55 Comp. Gen. 539 (1975) affirmed, 56 Comp. Gen. 427 (1977), which hold that employees are entitled to temporary promotions for extended details to established classified higher-level positions, provided they meet certain requirements. The Claims Division's denial of Mr. Quintal's claim was based on his failure to provide sufficient evidence that his detail began prior to August 6, 1972, and continued after January 31, 1973.

In support of his contention, Mr. Quintal provided a statement dated February 11, 1976, from Mr. James C. Harris, Chief of the Radar Unit, Balboa, Canal Zone, that Mr. Quintal was detailed to the higher-grade position during the entire 1 year period. The statement also presents the names of 6 persons who can attest to this detail. Our Claims Division concluded that this statement was not acceptable evidence that Mr. Quintal was detailed to a higher-grade position during this period. We concur.

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As is the case with any claim against the United States, the burden is on the claimant to establish the liability of the United States and the claimant's right to payment. See 4 C.F.R. § 31.7 (1979). With regard to what constitutes acceptable proof of a detail, Civil Service Commission Bulletin No. 300-40, May 25, 1977, at paragraph 8F, states in pertinent part that acceptable documentation includes official personnel documents or official memoranda, a decision under established grievance procedures, or a written statement from the person who supervised the employee during the period in question or other management official familiar with the work, certifying that to his or her personal knowledge the employee performed the duties of the particular, established classified position for the period claimed. Mr. Quintal's contention that he was detailed during the period of his claim must be tested against the prescribed criteria. See Edward M. Scott, B-192099, November 8, 1978.

The record in this case does not show that Mr. Harris was Mr. Quintal's supervisor during the period in question, nor does Mr. Harris certify that his statement is based on personal knowledge. That the statement lists other persons (presumably co-workers of Mr. Quintal) who can attest to this detail is also insufficient. While the understanding of co-workers as to the nature of an employee's duties may be corroborative evidence of a detail, such evidence by itself generally is insufficient to document a detail. William L. DeGraw, B-194369, August 24, 1979. Mr. Quintal has not provided any evidence of official recognition of assignment to and performance of the higher-grade duties during the time periods in question.

The record does include a "Request for Personnel Action," dated July 11, 1972, to detail Mr. Quintal as an Assistant Sector Manager for 90 days, with a proposed effective date of July 1, 1972. However, this date is merely proposed and as the effective date was not filled in, this form is not enough to overcome other evidence in the record which establishes that the detail began on August 6, 1972.

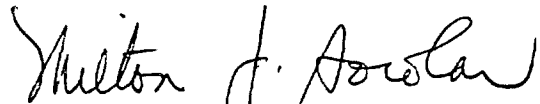
Also, the evidence is insufficient to support Mr. Quintal's contention that he was detailed to the higher-grade position after January 31, 1973. As our Claims Division notes, at the bottom of the November 13, 1972, notice of extension of Mr. Quintal's detail not to exceed December 6, 1972, his supervisor, Mr. Gus Atkins,

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signed a statement that the detail was completed on January 31, 1973. In addition, the record reflects a February 5, 1973, memorandum from the Chief, Airway Facilities Division, to Mr. Quintal's supervisor denying a request to extend his detail to the position of Assistant Sector Manager.

The evidence in this case is not sufficient to establish that Mr. Quintal did in fact perform the duties of the higher-grade position prior to August 6, 1972, nor after January 31, 1973. There are no official records of any detail to the higher-grade position during those time periods. Therefore, we conclude that Mr. Quintal has not met his burden of establishing the liability of the United States and his right to payment as provided in 4 C.F.R. § 31.7 (1979). See John R. Figard, B-181700, January 18, 1978.

Accordingly, we sustain our Claims Division settlement denying Mr. Quintal's claim for additional compensation for performing higher-level duties.



For The Comptroller General
of the United States